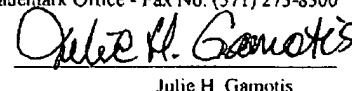


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Julie H. Gannots

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

VIA FAX: 571-273-8300

Jan Falck-Schmidt

Serial No. 10/593,455

Art Unit: 3616

Filed: February 2, 2007

Examiner: Toan C. To

For: SELF-PROPELLED VEHICLE

APPEAL BRIEF

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TABLE OF CONTENTS

<u>REAL PARTY IN INTEREST</u>	3
<u>RELATED APPEALS AND INTERFERENCES</u>	4
<u>STATUS OF CLAIMS</u>	5
<u>STATUS OF AMENDMENTS</u>	6
<u>SUMMARY OF CLAIMED SUBJECT MATTER</u>	7 - 8
<u>GROUNDS OF REJECTION</u>	9
<u>ARGUMENTS</u>	10 - 14
<u>CONCLUSION</u>	15
<u>CLAIMS APPENDIX</u>	APP A 1
<u>EVIDENCE APPENDIX</u>	APP B 1
<u>RELATED PROCEEDINGS APPENDIX</u>	APP C 1

REAL PARTY IN INTEREST

Falck Schmidt Defence systems A/S is the real party in interest in this case by virtue of an assignment recorded on reel/frame 019096/0814.

RELATED APPEALS AND INTERFERENCES

No other related appeal or interference is pending.

STATUS OF CLAIMS

Claims 2-4 were finally rejected over prior art.

Claim 1 was canceled.

Claims 2-4 are the subject of this appeal, i.e., the final rejection of claims 2-4 is being appealed to the Board of Patent Appeals and Interferences.

A copy of the appealed claims 2-4 is appended hereto in the CLAIMS APPENDIX.

STATUS OF AMENDMENTS

No amendments were presented after the final rejection.

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SUMMARY OF CLAIMED SUBJECT MATTER

The invention as defined in claim 2 and shown in Figures 1, 2, 3, (Replacement Sheet filed May 28, 2009) relates to a self-propelled vehicle 10 that is, for example, to be used for support or service work on airplanes 1, hereby also military airplanes, for example to ventilate the airplane, performing service on the hydraulic systems of the airplane, the power supply, loading of ammunition, tanking of fuel, towing etc. (substitute specification filed May 28, 2009, page 2, lines 16-20).

As defined in claim 2, when they are being used for performing service on airplanes, vehicles 10 of this kind are preferably relatively low 12 so that they can pass under the wings of an airplane 1. For this reason, as shown in Figure 1, the distance from the ground 14 to the bottom 16 of the vehicle 10 is relatively small. In a similar way, this is also the case for rescue vehicles that has to be able to pass gates in buildings (substitute specification filed May 28, 2009, page 3, lines 10-14). It is thus, according to the present invention, advantageous that a set of wheels 20 (Figure 2) can be lowered 22, as shown in Figure 3, so that the distance 2 from the ground 14 up to the bottom 16 of the vehicle can be increased 4 substantially (substitute specification filed May 28, 2009, page 2, lines 16-18).

As defined in claim 4, it is possible to tow the vehicle 10 with tow bar 18 as a trailer with high speed for greater distances that are also outside an outlined road (substitute specification filed May 28, 2009, page 3, lines 19-20).

Said set of wheels can be wheels that are also used in the self-propelling configuration, or wheels that are solely meant for use in their lowered configuration (substitute specification filed May 28, 2009, page 3, lines 21-22).

As defined in claim 3, vehicles 10 that are, for example, to be used for support or service work on airplanes 1, hereby also military airplanes, in which a set of wheels 20 can be lowered 22 so that the distance 2 from the ground 14 up to the bottom 16 of the vehicle 10 can be increased 4 substantially (substitute specification filed May 28, 2009, page 3, last line to page 4, line 3).

With the ongoing development of airplanes that start and land vertically, especially military airplanes, situations will arise where airplanes will not be receiving service in an airport, but for example on a parking lot, a piece of highway etc. (substitute specification filed May 28, 2009, page 2, lines 21-22). This means the support vehicles 10 will have to be brought to the place in question. This is also the case with regards to peacemaking or peacekeeping missions in far away destinations. This often means that support equipment, because of the need for a rapid intervention, will have to be moved to the area of operations by airplane. It is therefore advantageous that the vehicle comprises all the modules that are needed for support or service (substitute specification filed May 28, 2009, page 3, lines 1-6).

A vehicle of this kind can easily be flown to an area of operations where typically only one airplane at the time will receive service from the vehicle, and not like in a normal airport where several airplanes are receiving service from several vehicles (substitute specification filed May 28, 2009, page 3, lines 7-9).

GROUNDS OF REJECTION

- I. Claims 2-4 stand rejected under 35 U.S.C. 102(b) as anticipated by Routledge (U.S. Patent 4,619,578).

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ARGUMENTS

Allowance of all claims is requested. All of the claims distinguish the invention from the references.

Claims 2-4 are patentable under 35 U.S.C. 102(b) over Routledge (U.S. Patent 4,619,578).

The claims of the present invention are not anticipated by Routledge.

As defined in claim 2, Applicant's invention comprises self-propelled vehicles for performing support or service work on airplanes comprising a self-propelled vehicle 10 having a bottom 16, a set of wheels 20 movably disposed in a first position on the vehicle 10, a first distance between the bottom of the vehicle and a surface 14 on which the vehicle is supported, a second distance between the bottom 16 of the vehicle and the surface 14, the second distance formed by moving the set of wheels 20 to a second position 22 such that the vehicle is raised from the surface, wherein the second distance is substantially greater than the first distance.

For an invention to be anticipated, it must be demonstrated that each and every element of the claimed invention is present in the "four corners" of a single prior art, either expressly described therein or under the principle of inherency. *Lewmar Marine Inc. v Barient Inc.*, 3 USPQ2d 1766, 1767-1768 (Fed. Cir. 1987). The absence from a prior art reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 230 USPQ 81, 84 (Fed. Cir. 1986).

Routledge relates to a retractable wheel suspension apparatus for trailers attached to a vehicle via an articulated linkage (see, for example, columns 2, 3, and claim 1). Nothing in

Routledge describes, teaches, or inherently provides the claimed self-propelled vehicle with the unique features of claim 2. Therefore Routledge cannot anticipate the invention.

The office action states on page 2, "... Routledge discloses a self-propelled vehicle ..." but provides no basis in the reference for such a contention.

Routledge is a trailer. The ordinary dictionary definition of the term "trailer" is "an unpowered vehicle pulled by a powered vehicle." That has nothing to do with "self-propelled" vehicles. The ordinary dictionary definition of the term "self-propelled" is something that is "propelled by its own motor or power." Thus, Routledge's trailer cannot be a self-propelled vehicle. Routledge expressly states in columns 2 and 3, claim 1, and shows in the all the Figures, that the suspension system is mounted on a trailer 11 and the Figures show attachment of the trailer 11 to a truck 10 so that the trailer can be towed.

Thus, Routledge does not describe, teach, suggest or inherently provide the claimed "self-propelled" vehicle of claim. Therefore cannot anticipate the claimed invention defined in claim 2.

Claim 3 defines a vehicle 10 comprising a bottom 16 and a set of wheels 20 movably disposed between a first position 2 and a second position 4 with respect to the vehicle, wherein in the first position 2 the set of wheels 20 extend above the bottom of the vehicle and in the second position 4 the set of wheels are lowered to extend under the bottom 16 of the vehicle such that the vehicle is raised from a support surface 14 supporting the vehicle.

Routledge describes a truck 10 with a trailer 11 having a longitudinal side member 12 and a side-suspension and wheel assembly 13 attached to member 12. Assembly 13 includes a suspension bracket 16 rigidly attached to the side member 12 and having a pair of suspension

arms 27 rotatably attached at one end. Intermediate portion of each suspension arm 27 has air bags 21 attached thereto. The air bags have other ends attached to leg members 20 secured by a bracket 23 to the side frame member 12. Supporting leg 24 secures bracket members 20 to a central portion 25. Suspension arms 27 are connected to plate brackets 26, 28 and pivotable about pivot pin 18. Legs 22 are rigidly attached to plate brackets 22 and bearings 31, 32 so that wheel assemblies 19, brackets 20, 22, air bags 21, and suspension arms 27 can pivot about pivot pin 18.

Routledge expressly states in column 1, lines 10-40 that conventional vehicles have in-board mounted wheel assemblies causing problems use of those vehicles with varying loads. Thus, Routledge proposes moving the in-board mounting of the wheel assembly to out-board i.e. mounting the whole suspension apparatus to the side of frame 12 of trailer 11. Given that express teaching by Routledge, the reference cannot have the claimed set of wheels that are lowered in a second position to extend under the bottom 16 of the vehicle such that the vehicle is raised from a support surface 14 supporting the vehicle. Claim 3 describes that the vehicle has movable wheels with the wheels moving to a second position when they are lowered "to extend under the bottom of the vehicle" (see, for example, Figure 3). Also, nowhere in Routledge, there is any teaching, suggestion or even a remote hint of the set of wheels extending above the bottom of the vehicle in a first position as uniquely claimed. To be anticipating, a prior art reference must disclose "each and every limitation of the claimed invention[,]... must be enabling[,] and must describe...[the] claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Thus, Routledge does not describe, teach or inherently provide each and every limitation of claim 3. Therefore, Routledge cannot anticipate claim 3.

Claim 4 adds a tow bar 18 for towing the vehicle 10 as a trailer.

Routledge's truck 10 has a link member 46 pivotally attached by pin 47 to the frame portion 14 of the trailer 11 and has at the other end a pin 48 attached to the truck 10. In Figures 10 and 11 Routledge provides a ball and hitch structure 51 rigidly attached to the front suspension arm 52. Nothing in Routledge describes, teaches, suggests or even hints at a tow bar as claimed in claim 4. Therefore, Routledge cannot anticipate claim 4.

A prior art reference anticipates the subject of a claim only when the reference discloses every feature of the claimed invention, either explicitly or inherently (*see Hazani v. Int'l Trade Comm'n*, 44 USPQ2d 1358, 1361 (Fed. Cir. 1997) and *RCA Corp. v. Applied Digital Data Systems, Inc.*, 221 USPQ 385, 388 (Fed. Cir. 1984)).

Routledge does not provide a solution to the problem addressed by the present invention. The present invention resolves the problem of performing support or service work on airplanes with the self-propelled vehicle that needs to be relatively low so that it can pass under the wings of an airplane. The same item goes for rescue vehicles that have to be able to pass through gates in buildings. The invention also solves the problem of moving the self-propelled vehicle over longer distances on different terrain. Therefore, the present invention provides that the self-propelled vehicle has a set of wheels which can be lowered in order to increase the distance from the bottom to the surface substantially. In this raised position, it will be possible to tow the vehicle as a trailer with high speed for greater distances.

Thus, since each and every limitation of Applicant's Claims 2, 3, and 4 is not disclosed in Routledge, either expressly or through the principles of inherency, each of Claims 2, 3, and 4 is patentable under 35 U.S.C. § 102(b).

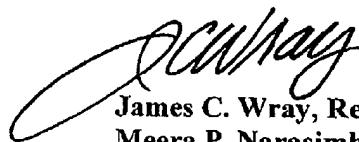
SUMMARY

Each of claims 2-4 is patentable under 35 U.S.C. 102(b) over Routledge.

CONCLUSION

Reversal of the Examiner and allowance of all the claims are respectfully requested.

Respectfully,



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CLAIMS APPENDIX**Appealed Claims:**

2. A self-propelled vehicle for performing support or service work on airplanes comprising a self-propelled vehicle having a bottom, a set of wheels movably disposed in a first position on the vehicle, a first distance between the bottom of the vehicle and a surface on which the vehicle is supported, a second distance between the bottom of the vehicle and the surface, the second distance formed by moving the set of wheels to a second position such that the vehicle is raised from the surface, wherein the second distance is substantially greater than the first distance.
3. A vehicle comprising a bottom and a set of wheels movably disposed between a first position and a second position with respect to the vehicle, wherein in the first position the set of wheels extend above the bottom of the vehicle and in the second position the set of wheels are lowered to extend under the bottom of the vehicle such that the vehicle is raised from a support surface supporting the vehicle.
4. The vehicle of claim 3, further comprising a tow bar for towing the vehicle as a trailer.

APP A 1

10/593,455

EVIDENCE APPENDIX

Original application, substitute specification, office actions and references of record.

APP B 1

10/593,455

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.

APP C 1

10/593,455